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13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 ANDREW LEFT,

19 Defendant.

No. 2:24-cr-00456-TJH

GOVERNMENT'S OPPOSITION TO  
DEFENDANT'S MOTION TO COMPEL  
PRODUCTION OF DISCOVERY;  
MEMORANDUM OF POINTS AND  
AUTHORITIES

Hearing Date: August 18, 2025  
Hearing Time: 10:00 a.m.  
Location: Courtroom 9C

22 The United States of America, by and through its counsel of  
23 record, the United States Attorney for the Central District of  
24 California, the Acting Chief of the Fraud Section of the Criminal  
25 Division of the U.S. Department of Justice, Assistant United States  
26 Attorneys Alexander B. Schwab and Haoxiaohan Cai and Trial Attorneys  
27  
28

1 Lauren Archer and Matthew Reilly, hereby file its opposition to  
2 defendant Andrew Left's motion to compel discovery (ECF No. 69).

3 This opposition is based on the attached memorandum of points  
4 and authorities, the files and records in this case, the exhibits  
5 hereto, and such further evidence and argument as the Court may  
6 permit.

7  
8 Dated: July 28, 2025

Respectfully submitted,

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13 /s/

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant Andrew Left's motion to compel expansive discovery from the U.S. Securities and Exchange Commission ("SEC") is an premises on a bait and switch. Defendant focuses extensively on the SEC's civil investigation of and ultimate complaint against defendant in asserting that the prosecution team worked "arm-in-arm" with the SEC. However, defendant fails to highlight for the Court a number of key facts. First, the prosecution team has already provided all of the record productions it received from the SEC Los Angeles Regional Office's parallel investigation into defendant (the "SEC Parallel Investigation").<sup>1</sup> Second, [REDACTED]

[REDACTED]  
[REDACTED]<sup>2</sup> Third, defendant now seeks - but obfuscates from the Court - two impermissible categories of material: records from other, unrelated SEC investigation files ("Unrelated SEC Investigations") and also materials from hypothesized SEC investigations that defendant admits that he does know whether they exist ("Speculated SEC Investigations"). For both of these categories, there is no basis to assert that the prosecution team has access to or knowledge of, which defendant must establish to succeed on his motion.

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<sup>1</sup> The government is in the process of making a small follow-on production of materials that it received from the SEC Parallel Investigation and anticipates making that production in advance of the hearing on defendant's motion to compel.

<sup>2</sup> See, infra, Section II.B.

These key facts doom defendant's Motion. This prosecution team<sup>3</sup> has no involvement in the Unrelated SEC Investigations or Speculated SEC Investigations, and utterly no access to the SEC's corresponding investigative files (to the extent such investigations and files even exist). While the SEC has granted an "access request" to the prosecution team for the Parallel SEC Investigation, the prosecution team has never submitted, nor has the SEC ever granted, any such requests for the Unrelated SEC Investigations or the Speculated SEC Investigations. Unsurprisingly, the prosecution team therefore has no ability to review, produce, or exercise any control over any of those matters. This is precisely the sort of overbroad discovery request for records from another agency that the Ninth Circuit recently foreclosed. See United States v. Alahmedalabdaloklah, 94 F.4th 782, 845 (9th Cir. 2024) (even when one component of an agency participated in a criminal investigation, that does not result in the prosecution team having access to or knowledge of the rest of the records held by other components of that same agency for purposes of Brady).

Moreover, the nature of the files sought reflects that defendant is on a fishing expedition for records that the prosecution team would not have an obligation to produce, even if they were held by another component of the Department of Justice (they are not). See *United States v. Cano*, 934 F.3d 1002, 1024-25 (9th Cir. 2019)

<sup>3</sup> In this case, the prosecution team is the U.S. Attorney's Office for the Central District of California, the Fraud Section of the U.S. Department of Justice's Criminal Division, the U.S. Postal Inspectors' Fraud Section team, and the Federal Bureau of Investigation's Los Angeles Field Office.

(government did not have an obligation to “comb the files” of two components within DOJ who did not participate in the criminal investigation for Brady). Here, defendant goes even further by seeking SEC files from matters investigated by completely different SEC offices than the office that conducted the SEC Parallel Investigation of defendant. Tellingly, defendant provides no basis for his assertion there is actual exculpatory evidence in such files.

In essence, defendant’s theory is that if another component of another agency might have materials that he wants, he is entitled to them even if the prosecution team has no access to, no knowledge of, and no control of the material. Confusingly, defendant seeks these purportedly expansive records while simultaneously claiming in another motion that the government produced too extensive discovery. Nonetheless, defendant’s proposed rule transforms the prosecution team’s discovery obligations well beyond any recognized principal to reach into every crevice of an agency even when it did not participate in the criminal investigation. That is not the law.

The prosecution team has produced the records that it has and will produce those that it has access to. Defendant’s motion to compel the production of records from unrelated SEC investigations conducted by wholly uninvolved SEC offices that the prosecution team has absolutely no access to, must be denied.

## **II. BACKGROUND**

### **A. The SEC Access Request Process**

Defendant fundamentally misunderstands an SEC access request letter and attempts to paint a nuanced process with an overly broad brush. As a baseline matter, materials gathered in SEC



1 investigations are nonpublic and confidential.<sup>4</sup> The SEC Division of  
2 Enforcement, which conducts the Commission's nonpublic investigations  
3 of civil violations of the federal securities laws, is spread among  
4 ten regional offices<sup>5</sup> and the Home Office in Washington, DC.  
5 Investigations within the SEC Division of Enforcement are formally  
6 segregated by matter numbers (designating the investigating office  
7 and unique number to the specific matter) and there is a formal  
8 process for opening an investigation, which is limited to specific  
9 facts, conduct, or individuals. See SEC Enforcement Manual § 2.3.  
10 When there is a formal order of investigation, the SEC itself issues  
11 an order that is limited to specifically designated staff members to  
12 act as officers of the Commission for purposes of that specific  
13 investigation. Id. at § 2.3.4. The files for different  
14 investigations are segregated by matter number, housed separately,  
15 see id. at § 3.2.9 (Maintaining Investigation Files) and § 3.2.10  
16 (Document Control), and not accessible across the entire SEC or even  
17 within the Division of Enforcement. Statutory authority and SEC  
18 rules and policies govern when and how the SEC can share information  
19 with criminal investigative authorities.<sup>6</sup> If a criminal agency, such

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21 <sup>4</sup> "All information obtained or generated by SEC staff during  
22 investigations or examinations should be presumed confidential and  
23 nonpublic unless disclosure has been specifically authorized." SEC  
Enforcement Manual §5.1 (available at <https://www.sec.gov/divisions/enforce/enforcementmanual.pdf>).

24 <sup>5</sup> <https://www.sec.gov/about/regional-offices> (last visited July  
25 24, 2025).

26 <sup>6</sup> Section 24(a) of the Securities Exchange Act of 1934 states  
27 that "[i]t shall be unlawful for any member, officer, or employee of  
the Commission to disclose to any person other than a member,  
(footnote cont'd on next page)

1 as DOJ, has a need for information, they may seek from the SEC an  
2 "access request" letter into a specific matter that the SEC Division  
3 of Enforcement is investigating.<sup>7</sup> There are three important  
4 limitations on this process: (1) the SEC has discretion whether or  
5 not to grant the access request; (2) if access is granted, the SEC  
6 staff retains discretion as to what materials from within a specific  
7 investigation file it will share pursuant to an access request  
8 grant;<sup>8</sup> and, most importantly for the present motion, (3) an access

9 \_\_\_\_\_  
10 officer, or employee of the Commission, . . . any information  
11 contained in any [document] obtained by the Commission . . . in  
12 circumstances where the Commission has determined pursuant to such  
13 rules to accord confidential treatment to such information." 15  
14 U.S.C. § 78x(b). Under the statute, a process was created by  
15 regulation to permit providing access to certain records to, among  
16 other entities, an agency of the federal government. 17 CFR §  
17 240.24c-1(b).

18 <sup>7</sup> "The Commission may, in its discretion and upon a showing that  
19 such information is needed, provide nonpublic information in its  
20 possession to [another federal government agency] if the person  
21 receiving such nonpublic information provides such assurances of  
22 confidentiality as the Commission deems appropriate." 17 CFR §  
23 240.24c-1(b)(1) (emphasis added).

24 <sup>8</sup> The regulation does not undermine the "[t]he Commission's  
25 authority or discretion to provide or refuse to provide access to, or  
26 copies of, nonpublic information in its possession in accordance with  
27 such other authority or discretion as the Commission possesses by  
28 statute, rule or regulation[.]" Id. (c)(1). Even when an access  
request in a particular matter is granted the SEC staff retains  
discretion as to what materials are in fact shared with criminal  
authorities. See SEC Enforcement Manual § 5.6.1 ("When the access  
request has been approved, staff may share documents from the  
investigative file."); § 5.1 ("work product and other privileged  
information is rarely disclosed, even when third-parties are granted  
access to the other materials in nonpublic files" and limiting  
disclosure of materials obtained from other agencies). And, of  
course, the ability to provide materials to criminal authorities is  
limited to those matters for which there is a valid access request.  
See id. ("All information obtained or generated by SEC staff during  
(footnote cont'd on next page)

request grant is strictly limited to the specific matter number referenced in the criminal agency's access request letter (*i.e.* access granted in one matter does not open up the entirety of the SEC's files to another investigative agency).<sup>9</sup> In sum, an access request is a threshold step to a criminal agency receiving certain SEC files, but it does not provide the other agency with control of, or legal or practical access to, the entire SEC files for the specific matter - and it certainly does not provide control, access, or knowledge of all of the SEC's other case files.

**B. The SEC Parallel Investigation Materials**

Defendant is correct that there are factual overlaps between the criminal securities fraud charges for which he was indicted in this case and the SEC's civil complaint. Beyond that, defendant misses the mark on numerous fronts.

The SEC conducted a separate, parallel investigation from DOJ. *See United States v. Stringer*, 535 F.3d 929, 936-39 (9th Cir. 2008) (recognizing separate parallel criminal and SEC civil investigations as appropriate). The SEC Parallel Investigation resulted in the filing of a complaint against defendant (with a different, more expansive set of conduct and stock tickers than charged in the government's criminal case). See SEC v. Left, 2:24-cv-6311-SPG (C.D.

investigations or examinations should be presumed confidential and nonpublic unless disclosure has been specifically authorized.").

<sup>9</sup> See Ex. 3

1 Cal. 2024). The SEC also filed settled charges against other related  
2 individuals and entities, including Citron Capital [REDACTED]  
3 [REDACTED]<sup>10</sup> The prosecution team submitted an access request  
4 to the SEC Parallel Investigation for information in the SEC Parallel  
5 Investigation file.<sup>11</sup> In connection with that request, the staff  
6 assigned to the SEC Parallel Investigation in the SEC's Los Angeles  
7 Regional Office provided the prosecution team certain materials  
8 obtained during their investigation.

9 Defendant has been provided with substantial material from the  
10 SEC Parallel Investigation file. First, defendant was provided with  
11 all productions of records that the SEC Parallel Investigation team  
12 provided to the prosecution team pursuant to the access request.  
13 Next, the prosecution team agreed to request from the SEC and provide  
14 defendant with additional records not previously provided to the  
15  
16  
17

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18 10 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23 See Ex. 3.

24 11 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

1 prosecution team.<sup>12</sup> The irony is that defendant is making this overly  
2 broad request for records, seemingly envisioning a vast array of  
3 records to be produced, while he simultaneously complains in another  
4 motion that the prosecution team has produced too much discovery and  
5 it has purportedly prevented him from discerning the nature of the  
6 charges against him. See ECF No. 62 at 9.

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 **C. Defendant's Motion to Compel Discovery from SEC**

17 Defendant's present motion concerns his requests for discovery  
18 from numerous other SEC investigation files (the Unrelated SEC  
19 Investigations) that the prosecution team has never had any access  
20 to, never submitted an access [REDACTED]

21 [REDACTED]

22 <sup>12</sup> This included materials [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]

See Ex. 3.

1 involvement with these investigations. Based on the public filings,  
2 the Unrelated SEC Investigations were not conducted by the SEC's Los  
3 Angeles Regional Office. In sum, the prosecution team does not have  
4 any form of access to, let alone possession, custody, or control over  
5 any materials from these other matters.

6 Defendant requests discovery from at least six SEC investigation  
7 files related to the following tickers: Cronos Group ("CRON"); XL  
8 Fleet ("XL"); General Electric ("GE"); Namaste Technologies  
9 ("NXTTF"); India Globalization Capital Inc. ("IGC"); and Beyond Meat,  
10 Inc. ("BYND").

11 **1. The Speculated SEC Investigations**

12 For GE,<sup>13</sup> NXTTF, and BYND, defendant asserts no knowledge of  
13 either an investigation into those entities or any public SEC action

14 <sup>13</sup> Defendant does not reference any investigation into GE in his  
15 motion, but appears to ignore the SEC's no-admit, no-deny settlement  
16 with GE for non-scienter disclosure fraud on December 9, 2020. In re  
17 General Electric Company, Exch. Act. Rel. No. 90620 (S.E.C. Dec. 9,  
18 2020). This investigation, which was conducted by the SEC's Boston  
19 Regional Office (see [https://www.sec.gov/newsroom/press-](https://www.sec.gov/newsroom/press-releases/2020-312)  
20 [releases/2020-312](https://www.sec.gov/newsroom/press-releases/2020-312)) resulted in a \$200 million fine for GE for failing  
21 to disclose failures in its power and insurance businesses. This  
22 omission may be because defendant's GE report (in the long direction)  
23 focused on discrediting another short seller who had alleged GE was  
24 engaging in accounting fraud and asserting that this was not the  
25 case. See Ex. 4 at 1 (Citron GE Long Report). In the positive  
26 report and accompanying tweet, defendant misled the market by stating  
27 that "Citron took the opportunity to buy stock as well" without  
28 disclosing that he had already placed limit orders to sell his  
position if the price rose by approximately 30 cents from his  
purchase price and intended to sell all of his shares shortly after  
publishing the report. (Indictment ¶¶ 86 -89); Ex. 4. Accordingly,  
it is nonsensical that any potential records gathered by the Boston  
Regional Office - in an investigation that demonstrated defendant's  
commentary was wrong - would be evidence that he is entitled to under  
a Brady theory. And, if this is the GE investigation defendant has  
in mind, the prosecution team clearly has no access to or knowledge  
(footnote cont'd on next page)

1 against those entities. Defendant even admits his request is based  
2 on pure speculation: "The multiple companies ... are most likely  
3 under investigation by the SEC[.]" Mot. at 4 (emphasis added).  
4 Defendant's lack of any basis to believe the SEC even has files  
5 involving investigations into these entities reveals his motion for  
6 the fishing expedition that it is. [REDACTED]

7 [REDACTED]  
8 [REDACTED]  
9 **2. The Unrelated SEC Investigations**

10 Defendant's motion to compel discovery from SEC investigation  
11 files and civil settlements with CRON, XL, and IGC (the Unrelated SEC  
12 Investigations) is also problematic. As threshold matter, the SEC's  
13 settlements with CRON and XL do not reference defendant, Citron, or  
14 anything about internet-based stock promoters/activist short sellers,  
15 like defendant. For CRON, the timing of the charged public  
16 statements by defendant in the indictment does not even align with  
17 the conduct covered in the SEC's matter. For example, publicly  
18 available information indicates that the CRON matter concerns conduct  
19 that began more than six months after defendant's manipulative tweet,  
20 report, and TV appearance regarding CRON in August 2018. See In the  
21 Matter of Cronos Group Inc., Exch. Act Rel. No. 96137 (S.E.C. October  
22 24, 2022) (concerning conduct that began in the first quarter of  
23 2019).

24  
25  
26 of a wholly unrelated SEC Boston Regional Office investigation that  
27 does not even reference defendant or short sellers. See Exch. Act.  
28 Rel. No. 90620.

1 For XL, defendant's theory of potential exculpatory information  
2 makes no sense. Defendant put out a misleading tweet on December 23,  
3 2020: "Citron long \$XL tgt \$60" and, within one trading day,  
4 defendant sold all of the XL shares he had just purchased at prices  
5 substantially below \$60. (Indictment ¶¶ 67-70.) The SEC later  
6 settled with XL for non-scienter fraud violations of the securities  
7 laws for misleading statements concerning its sales pipeline and  
8 conversion rate. See In the Matter of Spruce Power Holding Corp.,  
9 Exch. Act. Rel. No. 98612 (S.E.C. Sept. 28, 2023). In other words,  
10 while defendant's 2020 long tweet on XL predicted positive future  
11 news, the SEC's settlement with XL was a negative revelation about  
12 the company. It, therefore, does not follow that the SEC's files in  
13 the XL matter would indicate that defendant's tweet was correct, part  
14 of a truly held opinion when issued, or that he did not withhold  
15 critical information about his own trading intentions when publicly  
16 touting the stock. In fact, it appears that these files would only  
17 further support that defendant recommended to the public a stock that  
18 turned out to have made misleading statements.

19 With regard to IGC, defendant similarly fails to provide any  
20 basis or indication that the SEC investigation of IGC had anything to  
21 do with him. As an initial matter, the SEC's settlement focused on a  
22 March 2018 press release and defendant's public statement about IGC  
23 occurred in October 2018. Compare In the Matter of India  
24 Globalization Capital, Inc., Securities Act of 1933 Release No. 10908  
25 (S.E.C. December 21, 2020) and Indictment ¶ 99. There is no  
26 reference to defendant in the SEC's public filings about the IGC  
27 case. To the extent defendant believes that the findings of this or  
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1 any of the SEC's cases are relevant to his defense theory, he has all  
2 the relevant information in the SEC's multi-page order addressing the  
3 SEC's findings (on a neither admit nor deny basis) concerning the  
4 non-scienter fraud charges about the March press release and April-  
5 June equity raise. In re IGC, ¶¶ 1, 9-20.

6 For all of these matters, there is no basis to believe that  
7 there is anything material or exculpatory concerning defendant in the  
8 SEC's investigation files. Of course, the prosecution team has no  
9 insight as it does not have any form of access to (and certainly no  
10 control or knowledge of) the case files in these matters conducted by  
11 the separate SEC Home Office staff that apparently worked on these  
12 matters (as compared to the Los Angeles Regional Office that worked  
13 on the SEC Parallel Investigation).

14 **3. Defendant's Other Requests from the SEC's Files**

15 Defendant also requests "any evidence of wash, match, or  
16 coordinated trading in any of the stocks at issue in the Indictment"  
17 from the SEC. Defendant does not articulate how such information  
18 could be Brady or explain how this information is otherwise  
19 discoverable given that there are not any allegations of such trading  
20 in the Indictment by defendant or others. Despite the prosecution  
21 team's request for additional information about this request during  
22 the meet-and-confer process, defendant failed to articulate what form  
23 of evidence he is seeking, in what SEC investigation files he  
24 believes such evidence exists, and how there is any discovery  
25 obligation over such information.

26 Lastly, defendant makes a catch all request for "any other Brady  
27 material in the SEC's possession." Seemingly, defendant's request

1 implies that, in his view, not only does the prosecution team have a  
2 discovery obligation over materials beyond the SEC Parallel  
3 Investigation, but the entirety of the SEC's files. Such a sweeping  
4 obligation and untenable scope does not exist for the government's  
5 obligations over files throughout the Department of Justice,<sup>14</sup> but  
6 defendant suggests that the prosecution team somehow has access,  
7 control, and knowledge of the entirety of another agency's materials.  
8 This is simply not the law.

9 As discussed further below, the facts reveal two fundamental  
10 flaws with defendant's motion to compel: (1) he claims "there is  
11 significant exculpatory evidence" in the SEC's files, but reveals  
12 that his claim is based on wholesale speculation; and (2) he ignores  
13 that the prosecution team does not have access, control, or knowledge  
14 of the SEC's files beyond what has been provided, and suggests an  
15 unfounded standard where the prosecution and the entire SEC are co-  
16 extensive.

### 17 **III. LEGAL STANDARD**

18 "Under both Brady and Rule 16, the government 'has no obligation  
19 to produce information which it does not possess or of which it is  
20 unaware.'" Cano, 934 F.3d at 1023 (quoting Sanchez v. United States,  
21 50 F.3d 1448, 1453 (9th Cir. 1995)). The government's obligations on  
22 this front are cabined by the requirement that the materials must be  
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24 <sup>14</sup> Cano, 934 F.3d at 1023 (concluding that that the FBI and DEA's  
25 files were not required to be searched for Brady despite that those  
26 entities were also components of DOJ and that defendant is not  
27 entitled to require the government to conduct a broad and expansive  
28 search for speculative information that is outside of the  
government's possession, custody, and control, if it exists at all).

1 in the government's "possession." Id. As relevant here,  
2 "[d]ocuments held by another executive branch agency are deemed to be  
3 'in the possession of the government' if the prosecutor has  
4 'knowledge of and access to' the documents." Id. (quoting United  
5 States v. Bryan, 868 F.2d 1032, 1036 (9th Cir. 1989)). "The  
6 prosecutor will be deemed to have knowledge of and access to anything  
7 in the possession, custody or control of any federal agency  
8 participating in the same investigation of the defendant." Bryan,  
9 868 F.2d at 1036 (emphasis added). The same investigation is not a  
10 parallel one. See Stringer, 535 F.3d at 936-39 (recognizing separate  
11 parallel investigations between a DOJ criminal investigation and an  
12 SEC civil investigation).<sup>15</sup> Additionally, even when an agency is part  
13 of the same investigation, the government's discovery obligations do  
14 not extend to entirety of that agency's files, but only to the files  
15 of agency components actually "participating" in the investigation  
16 and those components that the government actually has "access to" the  
17 records of. United States v. Alahmedalabdaloklah, 94 F.4th 782, 844-  
18 45 (9th Cir. 2024) ("we hold that the government did not have 'access  
19 to' the entirety of DoD merely because it had the ability to send  
20 queries to [one component]"). "As to those agencies that are not

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21 <sup>15</sup> There is no serious argument that the government and SEC  
22 engaged in a joint investigation here. See, infra, fn. 16. In his  
23 motion defendant devotes three sentences to his argument and does not  
24 grapple with any of the cases or factors necessary to find two entire  
25 investigations by separate civil and criminal agencies joint. And,  
26 even the sole outlier Central District of California he relies on  
27 acknowledges that the SEC was not part of the prosecution team there.  
28 See United States v. Kabilafkas, No. 24-cr-270-MRA-1, ECF No. 139, at  
\*15-16 (C.D. Cal. May 13, 2025) (the SEC is "not a part of the  
prosecution team in this case[,] but wrongly finding that the SEC  
had acted on the government's behalf).

involved in the investigation, the prosecutor need not comb the files of every federal agency which might have documents; rather, the obligation to disclose turns on the extent to which the prosecutor has knowledge of and access to the documents." Id. (quoting United States v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995)) (internal punctuation omitted).

#### IV. ARGUMENT

Turning to the "knowledge of and access to" test here, defendant's motion to compel can be summarily denied. The prosecution team has neither knowledge of nor access to any SEC case files for the Unrelated SEC Investigations or the Speculated SEC Investigations.

Defendant's heavy reliance on Kabilafkas (in fact, the only case cited in the argument section of his brief) is misplaced. 2:24-cr-270-MRA, ECF No. 139 (C.D. Cal. May 13, 2025). As an initial matter, defendant ignores that in Kabilafkas, the court denied the motion to compel. Id. at 16. More importantly, defendant's argument rests on a false equivalency because Kabilafkas did not raise "exact same issue," as defendant claims. Whereas defendant seeks files from entirely unrelated SEC Investigations concerning other companies, Kabilafkas's request was a much narrower one, seeking discovery from the prosecution team for SEC files of the SEC's parallel investigation into Kabilafkas himself. Id. at 14-15. Kabilafkas does not provide any authority for a fishing expedition into the SEC's files for unrelated or hypothetical investigations that the prosecution team has neither access to nor control over.

1 Here, instead, the issue is directly comparable to that faced by  
2 the Ninth Circuit in Alahmedalabdaloklah where the court made clear  
3 that defendant's arguments "conflate the [agency] components that  
4 participated in the investigation with the entirety of [the agency]." 94 F.4th at 844. Worse, in this case, the SEC component for which  
5 the prosecution team has provided extensive files was itself not even  
6 part of the criminal investigation, but engaged in a separate  
7 parallel civil investigation.<sup>16</sup> Nonetheless, the prosecution team's  
8 extensive provision of the materials provided from the SEC Parallel  
9 Investigation moots the issue. See, supra, fn. 12.

11  
12 <sup>16</sup> In the SEC Parallel Investigation, the SEC conducted numerous  
13 investigative testimony sessions and interviews that the government  
14 did not participate in and, similarly, the government and its agents  
15 conducted numerous interviews that the SEC did not participate in.  
16 While there were interviews conducted with both the DOJ and SEC  
17 present, criminal law enforcement took the notes and memorialized the  
18 interview (and such reports have already been produced to defendant).  
19 Notably, the SEC took three days of sworn testimony from defendant,  
20 but the government did not participate. And when the U.S. Postal  
21 Inspectors interviewed defendant, the SEC was not present.  
22 Additionally, the SEC took no part in any grand jury testimony or  
23 presenting the case to the grand jury, and has not accompanied the  
24 government in court proceedings on this case. The SEC did not  
25 participate in the preparation or execution of the search warrants in  
26 the matter. The SEC charged additional securities in its complaint  
27 that the government did not include in the indictment, and the SEC  
28 settled three related cases with other parties that did not involve  
the government. While the government and SEC shared certain  
documents with one another, neither shared all of the records  
collected. And it is recognized that "[a]lthough the SEC granted the  
Government access to certain material, '[t]he mere fact that the  
Government may have requested and received documents from [another  
agency] in the course of its investigation does not convert the  
investigation into a joint one.'" United States v. Boustani, No. 18-  
CR-681, ECF No. 232 (Order Den. Def. Disc. Mot.) at 4 (E.D.N.Y. filed  
Oct. 3, 2019) (quoting United States v. Finnerty, 411 F. Supp. 2d 428,  
433 (S.D.N.Y. 2006)).

1       What remains is defendant's argument that the prosecution team  
2 has an obligation to search files that it has no access to. The  
3 Ninth Circuit foreclosed such a standard in Alahmedalabdaloklah.  
4 There, the defendant asserted that while the government could and did  
5 query the "DoD databases to which the U.S. Attorney's Office had  
6 access" and had contacted U.S. Central Command (CENTCOM) to get  
7 certain information, Brady required additional searches that would  
8 require additional approval and "would require a search of all DoD  
9 holdings[.]" 94 F.4th at 843-44. The Ninth Circuit rejected this  
10 position and affirmed the district court's denial of the motion to  
11 compel holding that one component of a federal agency's participation  
12 in an investigation does not transform the entire agency into a  
13 participant in the investigation. Id. at 845 (defendant's  
14 "suggestion that DoD, as a whole, was a 'participating agency' cannot  
15 be squared with our conclusion in Cano."); see also Cano, 934 F.3d at  
16 1024 (holding that the DOJ did not have an obligation to search the  
17 files of other DOJ components that did not participate in the  
18 investigation). The Ninth Circuit's decision turned in part, on the  
19 fact that the government "had access only to those databases directly  
20 related to [the defendant's] prosecution, that DoD did not  
21 affirmatively grant the government access to the many databases and  
22 sources of information that [the defendant] wanted the government to  
23 search[.]" Id. at 845.

24       Just as the government in Alahmedalabdaloklah had no access to  
25 the other databases and DOD files beyond those related to the  
26 defendant's prosecution, the prosecution team has no access to the  
27 SEC's files for the Unrelated SEC Investigations or the Speculated  
28

1 SEC Investigations. There are no access requests in place with those  
2 teams, the prosecution team has not interacted with those case teams,  
3 and - based on the prosecution team's review of the public settlement  
4 documents - those matters do not even concern defendant.

5 Putting aside that the SEC's Los Angeles Regional Office was not  
6 a participating agency in the DOJ's criminal investigation,  
7 Alahmedalabdaloklah's teaching is clear: just as access to certain  
8 DOD databases did not transform the rest of the DOD into a  
9 participating agency, the SEC Parallel Investigation does not create  
10 knowledge of and access to unrelated investigations conducted by  
11 other SEC offices and staff members. And it certainly does not  
12 create knowledge or access to potential non-public SEC investigations  
13 that defendant only speculates exist. Defendant's proposed rule -  
14 whereby an access request to one SEC investigation renders the entire  
15 SEC within the prosecution team's knowledge and access - would sweep  
16 broader than the government's obligations over DOJ's own records,  
17 which are limited to those agencies or offices that participate in  
18 the investigation. See Cano, 934 F.3d at 1024-25 (finding the  
19 government did not have an obligation to "comb the files" of the FBI  
20 and DEA (two components within DOJ) for Brady because it did not have  
21 access to those files).

22 **V. CONCLUSION**

23 The district court in United States v. Tournant, in rejecting a  
24 claim that the government and SEC conducted a joint investigation,  
25 observed that "courts have treated with skepticism broad requests for  
26 orders requiring the government to search the entire case file of  
27 another agency for Brady materials," and disapproved particularly of

1 defense's "exceedingly broad request—asking the court to compel the  
2 government to search all files of the SEC for any potentially  
3 exculpatory evidence pertaining to [defendant]." 2023 WL 5001186, at  
4 \*\*6-7 (S.D.N.Y. Aug. 4, 2023). As the Ninth Circuit has explicitly  
5 recognized: "non-participating agencies may have valid concerns over  
6 revealing sensitive information in cases wholly unrelated to the  
7 agencies' own area of expertise, and the agencies may be reluctant to  
8 cooperate in a particular investigation if it means opening their  
9 files in other investigations." Alahmedalabdaloklah, 94 F.4th at 845  
10 (quoting Cano, 934 F.3d at 1025). These policies considerations only  
11 further bolster the need to deny defendant's attempted fishing  
12 expedition.

13 Defendant's motion to compel, which essentially asks the  
14 prosecution team to "search all files of the SEC for any potentially  
15 exculpatory evidence[,] " is beyond overly broad and "is simply not  
16 supported by current law". Tournant at \*6-7 (collecting cases).  
17 Here, as in Tournant, defendant has "not cite[d] any case in which a  
18 court has granted a such a sweeping, untailed Brady request,  
19 compliance with which would be highly onerous for the government, and  
20 which would involve searching databases, reviewing terabytes of  
21 documents, and parsing through attorney work product." Id. at \*7  
22 (internal punctuation omitted). Absent a legal basis for these  
23 requests, defendant's motion to compel is unsupported by law and does  
24 not allow for the extraordinary remedy he seeks.

25 Accordingly, the Court should deny defendant's motion to compel  
26 in its entirety.



**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel for the United States, certifies this memorandum of points and authorities contains 6,841 words, which complies with the 7,000 word limit of L.R. 11-6.1.

Dated: July 28, 2025

/s/  
\_\_\_\_\_  
MATTHEW REILLY  
Trial Attorney